

HOUSE BILL 1015
By Tidwell

AN ACT to levy a severance tax on pulpwood in Benton County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context otherwise requires:

(1) "County" means Benton County.

(2) "Person" means an individual, corporation, partnership, limited partnership, conglomerate, or any other entity owning or possessing an interest in lands located in the county.

(3) "Pulpwood" means trees severed from the ground, both hardwood and softwood, whether whole or part, that is ground or chipped and manufactured into salable wood or paper products.

SECTION 2.

(a) There is hereby levied a severance tax on all pulpwood products severed from the earth and in their natural or unprocessed state. The tax is levied on the entire production in the county regardless of the place of sales or the fact that delivery may be made outside the county.

(b) The tax shall accrue at the time such products are severed from the earth and in their natural or unprocessed state.

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(c) The tax levied shall be a lien upon all such products severed in the county and upon all property from which it is severed, and such lien shall be entitled to preference over all judgments, encumbrances or liens whatsoever created.

SECTION 3. The measure of the tax is fifteen cents (\$0.15) per ton on all pulpwood products severed from the ground in the county.

SECTION 4. Every interested owner shall be liable for this tax to the extent of the owner's interest in such products. The owner shall become liable at the time the pulpwood products are severed from the earth and ready for sale, whether before processing or after processing as the case may be.

SECTION 5.

(a) The tax levied by this act shall be due and payable monthly on the tenth (10th) day of the month next succeeding the month in which the pulpwood is severed from the soil.

(b) For the purpose of ascertaining the amount of tax payable, it shall be the duty of all owners to transmit to the county trustee, on or before the fifteenth (15th) day of the month next succeeding the month in which the tax accrues, a return upon forms provided by the county trustee. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 6.

(a) The tax levied by this act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues.

(b) When any owner fails to make any return and pay the full amount of the tax levied on or before such date, there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment.

(c) All such penalties and interest imposed by this act shall be payable to and collectible by the county trustee in the same manner as if they were a part of the tax imposed.

SECTION 7. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing pulpwood from all production units administered, owned or possessed by that person in the county from which such products may be severed and sold and upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the sheriff upon the request of the county trustee.

SECTION 8. The proceeds of the tax levied by this act shall be deposited in the general fund of the county, and, with the school system having priority, all or part of the proceeds may be designated by the county commission.

SECTION 9.

(a) It shall be a violation of this act for any person required by this act to make a return, pay a tax, keep records, or furnish information deemed necessary by the county trustee for the computation, assessment, or collection of the tax imposed by this act, to fail to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation. It shall be a violation for any person to willfully or fraudulently make and sign a return which such person does not believe to be true and correct as to every material fact.

(b) Violations of the provisions of this act shall be punishable by a fine of not more than one thousand dollars (\$1,000.00).

(c) For purposes of this section the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

SECTION 10. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Benton County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and so certified to the secretary of state.

SECTION 11. For the purposes of approving or rejecting the provisions of this act, as provided in Section 10, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes it shall upon such approval become effective July 1, 1997.